

JUL 15 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JASMAIL SINGH SANDHU,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-73334

Agency No. A73-124-716

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted July 11, 2005^{**}

Before: SCHROEDER, Chief Judge, RAWLINSON and BYBEE, Circuit
Judges.

Jasmail Singh Sandhu, a native and citizen of India, petitions for review of
the Board of Immigration Appeals' (BIA") order denying as untimely his

^{*} This disposition is not appropriate for publication and may not be cited
to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

^{**} The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

motion to reopen removal proceedings. We dismiss the petition for review.

We previously denied Sandhu's petition for review of the BIA's affirmance of the IJ's denial of asylum and withholding of removal. *See Sandhu v. Ashcroft*, No. 02-74138 (9th Cir. Nov. 13, 2003). Sandhu's sole contention on this petition for review is that his motion to reopen was filed approximately one year late because he received ineffective assistance of counsel. We lack jurisdiction to consider Sandhu's ineffective assistance of counsel claim because he did not exhaust his administrative remedies by first raising it to the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 677 (9th Cir. 2004) (explaining that exhaustion is jurisdictional); *Ontiveros-Lopez v. INS*, 213 F.3d 1121, 1124 (9th Cir. 2000) (holding that a petitioner must exhaust administrative remedies by first presenting an ineffective assistance of counsel claim to the BIA).

PETITION FOR REVIEW DISMISSED.